

1 SPECIAL SESSION

2 H.3

3 Introduced by Representative Grad of Moretown

4 Referred to Committee on

5 Date:

6 Subject: Crimes; restorative justice; criminal threatening; school discipline

7 Statement of purpose of bill as introduced: This bill proposes to 1) require the
8 Agency of Education to issue guidance that sets out restorative justice
9 principles for responding to school discipline problems and to use funding for
10 the adoption and implementation of those principles; 2) explicitly prohibit law
11 enforcement officers from engaging in a sexual act with a person in the
12 custody of law enforcement; and 3) prohibit threatening to use a firearm or an
13 explosive device to harm another person on school property.

14 An act relating to restorative justice principles in school discipline,
15 prohibiting sexual exploitation of a person in the custody of a law
16 enforcement officer, and criminal threatening

17 It is hereby enacted by the General Assembly of the State of Vermont:

18 Sec. 1. RESTORATIVE JUSTICE PRINCIPLES FOR RESPONDING TO
19 SCHOOL DISCIPLINE PROBLEMS

20 On or before July 1, 2019, the Agency of Education shall issue guidance to
21 all public school boards and boards of approved independent schools that sets

1 out restorative justice principles for responding to school discipline problems.

2 Each public school board and each board of an approved independent school

3 shall consider this guidance and whether to adopt a policy on the use of

4 restorative justice principles for responding to school discipline problems. The

5 restorative justice principles contained in the Agency guidance shall be

6 designed to:

7 (1) decrease the use of exclusionary discipline;

8 (2) ensure that disciplinary measures are applied fairly and do not target

9 students based on race, ethnicity, gender, family income level, sexual

10 orientation, immigration status, or disability status; and

11 (3) provide students with the opportunity to make academic progress

12 while suspended or expelled.

13 Sec. 2. IMPLEMENTATION OF RESTORATIVE JUSTICE PRINCIPLES;

14 GRANT PROGRAM

15 (a) The Agency of Education shall use funding under 16 V.S.A. § 2969(c)

16 to assist public and approved independent schools with the adoption and

17 implementation of restorative justice principles for responding to school

18 discipline problems. The Agency shall determine the eligibility criteria for

19 receiving a grant and determining the grant amount, and shall monitor the use

20 of grant monies.

1 Sec. 4. 13 V.S.A. § 3259 is added to read:

2 § 3259. SEXUAL EXPLOITATION OF A PERSON IN THE CUSTODY OF
3 A LAW ENFORCEMENT OFFICER

4 (a) No law enforcement officer shall engage in a sexual act with a person
5 whom the officer is detaining, arresting, or otherwise holding in custody or
6 who the officer knows is being detained, arrested, or otherwise held in custody
7 by another officer.

8 (b) A person who violates subsection (a) of this section shall be imprisoned
9 not more than five years or fined not more than \$10,000.00, or both.

10 Sec. 5. 13 V.S.A. § 1702 is amended to read:

11 § 1702. CRIMINAL THREATENING

12 (a) A person shall not by words or conduct knowingly:

13 (1) threaten another person; and

14 (2) as a result of the threat, place the other person in reasonable
15 apprehension of death or serious bodily injury.

16 (b) A person who violates subsection (a) of this section shall be imprisoned
17 not more than one year or fined not more than \$1,000.00, or both.

18 (c) A person who violates subsection (a) of this section with the intent to
19 prevent another person from reporting to the Department for Children and
20 Families the suspected abuse or neglect of a child shall be imprisoned not more
21 than two years or fined not more than \$1,000.00, or both.

1 (d)(1) A person shall not by words or conduct knowingly:

2 (A) threaten to use a firearm or an explosive device to harm another
3 person in a school building, on school property, or in an institution of higher
4 education; and

5 (B) as a result of the threat, place any person in reasonable
6 apprehension of death or serious bodily injury.

7 (2) A person who violates this subsection shall be imprisoned not more
8 than three years or fined not more than \$5,000.00, or both.

9 ~~(d)~~(e) As used in this section:

10 (1) “Serious bodily injury” shall have the same meaning as in section
11 1021 of this title.

12 (2) “Threat” and “threaten” shall not include constitutionally protected
13 activity.

14 (3) “Firearm” shall have the same meaning as in section 4016 of this
15 title.

16 (4) “School property” shall have the same meaning as in section 4004 of
17 this title.

18 ~~(e)~~(f) Any person charged under this section who is under 18 years of age
19 shall be adjudicated as a juvenile delinquent.

20 ~~(f)~~(g) It shall be an affirmative defense to a charge under this section that
21 the person did not have the ability to carry out the threat. The burden shall be

1 on the defendant to prove the affirmative defense by a preponderance of the
2 evidence.

3 Sec. 6. EFFECTIVE DATES

4 This act shall take effect on passage except Sec. 5 shall take effect on
5 July 1, 2018.